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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 61st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 March 1995, at 3 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

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The meeting was called to order at 3.10 p.m.

STATEMENT BY MR. SANTAMARIA, MINISTER FOR FOREIGN AFFAIRS OF EL SALVADOR

1. The CHAIRMAN invited the Minister for Foreign Affairs of El Salvador to address the Commission.

2. Mr. SANTAMARIA (El Salvador), having thanked all those countries which had provided encouragement and support to El Salvador throughout the long process that had finally led to national reconciliation, said that the internal conflict which had divided the country had also impaired democracy and the rule of law, thus creating the conditions for grave violations of human rights. Throughout the 12 years of the armed conflict, the Commission had continued to express its concern and solidarity and to encourage a peaceful and negotiated solution to the conflict.

3. The peace negotiations had finally borne fruit in 1990 with the signing of the San José Agreement, which provided for the restoration of the rule of law and respect for human rights in El Salvador. A definitive Peace Accord had been signed in 1992 and the Commission had again provided assistance in the implementation of those Accords, and particularly their provisions relating to human rights and the administration of justice.

4. El Salvador had embarked upon the phase of consolidating peace, democracy, the rule of law, justice and the protection of human rights. In keeping with the terms of the Peace Accords, presidential, parliamentary and local elections had been held on 20 March 1994 to give effect to the constitutional reforms aimed at establishing a representative, participatory and transparent democracy in which international standards for the protection of civil and political rights were respected. For the first time in the recent history of the country, the democratic system was open to all political currents and ideologies, without exception.

5. The elections marked the emergence of a democratic political system in El Salvador in which freedom of the press and of opinion and association and the unrestricted exercise of political rights were guaranteed. Institutional reforms had been launched to enhance the efficiency and strengthen the independence of the judiciary and to put an end to all forms of impunity. The former security forces had been definitively disbanded and a new National Civil Police force deployed.

6. Responsibility for the new phase of the peace process lay with the people of El Salvador themselves, since the United Nations Observer Mission in El Salvador (ONUSAL) was scheduled to leave the country in April 1995, following the implementation of most of the provisions of the Peace Accords and the resolution of the grave human rights problems of the past. The withdrawal of ONUSAL meant that the peace process had advanced sufficiently to make in situ international verification no longer necessary. Nevertheless, it also constituted a challenge to the new institutions that had emerged during the peace process, particularly those responsible for the administration of

justice, law and order and the protection of human rights, to demonstrate their effectiveness. Moreover, both the State and society in general were required to develop on their own social and political practices based on dialogue and on balancing the interests of the governors and the governed.

7. His Government accepted that historic challenge and fully intended to consolidate the rule of law in a manner consistent with the new national and international realities. That would require a strengthening of the relations between the State and society, opening up channels of communication with the Government, encouraging popular participation in the search for solutions to the principal national problems, promoting intersectoral dialogue and strengthening the local authorities. Only thus could a new model of social relations be built in El Salvador within which all citizens could aspire to a better life.

8. The country already possessed the organizational and administrative structure to permit the institutions established under the Peace Accords to discharge their responsibilities effectively after the expiration of the ONUSAL mandate. Indeed, the Constitution of El Salvador and secondary legislation already conferred on the Government Procurator's Office broad authority to fulfil its mission of promoting and protecting human rights in the country. In fact, the Government Procurator had already taken over full responsibility for receiving complaints and investigating allegations of human rights violations, a task that had previously been the responsibility of ONUSAL.

9. The job of strengthening the new institutions, including the National Counsel for the Defence of Human Rights, remained incomplete, however, mainly due to the lack of financial resources and to the problems that typically plagued the implementation of any major institutional reform. As the party directly responsible for the promotion and protection of human rights in El Salvador, however, his Government was firmly committed to ensuring that the progress made to date was not reversed and that the foundations were laid for genuine and lasting national reconciliation. In that connection, it was considering the possibility of acceding to other international human rights instruments in order to widen the protection enjoyed by Salvadorians in that field.

10. The Secretary-General of the United Nations had frequently stated that, thanks to the capacity of the Salvadorian people to work towards a national consensus, the United Nations operation in El Salvador had been the most successful of any United Nations operation in recent post-cold-war history. El Salvador was perhaps the country whose human rights history was most closely entwined with the human rights machinery of the United Nations. For more than 14 years, the Commission on Human Rights had been engaged in a constructive and fruitful dialogue with successive Salvadorian Governments in which it had stressed the interrelationship between peace, democracy and respect for human rights.

11. During that period, El Salvador had cooperated with the various persons appointed by the Commission and with other bodies and monitoring agencies of the United Nations and the inter-American system. Eloquent proof of the desire of the Salvadorian people for peace and of the confidence which it placed in the ability of the United Nations to contribute to the protection of human rights in El Salvador had been the Government's historic invitation to the United Nations to establish an observer and verification mission in its territory with broad powers to monitor the human rights situation in situ. Following the example of El Salvador, other such missions had been used with success in Cambodia and Haiti and one was currently being tried in the sister Republic of Guatemala.

12. The activities of the human rights division of ONUSAL had helped to bring about a dramatic improvement in the human rights situation in El Salvador, a fact which had been acknowledged by the various international institutions for the protection of human rights. The 14 years' cooperation with the United Nations were thus bearing fruit in a manner consistent with the aspirations of the people of El Salvador and the expectations of the international community.

13. As a result of the positive evolution of the human rights situation in the country, it was no longer necessary for it to remain on the Commission's agenda. Responsibility for promoting and protecting human rights in the country would henceforth lie with national institutions. A new phase of cooperation with the United Nations should therefore begin, characterized by technical assistance in the areas of human rights, the administration of justice and the security of citizens. The Centre for Human Rights should thus join its efforts to those of the other governmental and non-governmental bodies currently providing technical cooperation to El Salvador.

14. Given the diversity of the cooperation projects financed by the United Nations Development Programme (UNDP), ONUSAL, various development and cooperation agencies, and donor countries, care must be taken to ensure that the projects proposed by the Centre for Human Rights took account of pre-existing projects and projects that were negotiated in other forums, thus avoiding duplication of effort. Towards that end, the Government proposed to establish an organ to coordinate the programmes of the various providers in order to match the supply of international cooperation with the demands and priorities of the national institutions responsible for the administration of justice, law and order and human rights.

15. El Salvador's recent accession to membership of the Commission was a recognition by the international community of the progress it had made towards democracy and respect for human rights. His Government intended to use that membership to encourage universal utilization of the international human rights machinery so as to put an end to grave violations of human rights in other countries.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1995/L.86, L.88/Rev.1, L.89-91, L.93, L.94/Rev.1, L.95, L.96, L.99-102, L.104, L.107, L.108 and L.111)

Draft resolution on the situation of human rights in the Sudan (E/CN.4/1995/L.93)

16. Mr. WEINTRAUB (United States of America), introducing the draft resolution on behalf of its sponsors, said that its purpose was to focus attention on the very serious human rights situation that prevailed in the Sudan. It noted with deep concern reports of grave violations of human rights, such as summary executions, detentions without trial, forced displacement of persons, and torture. It also expressed the international community's deep concern over reports of the indiscriminate bombing of civilians, the repeated human rights violations perpetrated against women and girls, and the continuing restrictions placed on humanitarian assistance destined for certain sectors of the Sudanese population.

17. The fact that four separate special rapporteurs had each reported very serious human rights violations in the Sudan was further proof of the woeful human rights conditions which continued to plague that country.

18. The draft resolution called on the Sudanese Government to put an end to the widespread violations and to comply with the international human rights instruments to which it was party, including the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, and the Slavery Conventions.

19. It also called on the Government to permit the Special Rapporteur on the situation of human rights in the Sudan to return to the country with free and unlimited access to anyone there, without such persons facing threats or reprisals. Refusal to do so would simply reinforce the idea that the Sudanese Government was as indifferent to the opinions of the world community as it was to the human rights of its own citizens.

20. While his delegation recognized that armed insurgents had committed many serious human rights violations in the Sudan, the Government's continuing abuses only fuelled support for them. The best approach to that situation was simply to stop the fighting. Improving human rights in the country would improve the lives of all Sudanese, which was the goal of the draft resolution. He thus called on all delegations to give their support to the draft resolution.

21. Mr. MÖLLER (Secretary of the Commission) announced that the observers for Belgium, Iceland, Luxembourg, Slovakia and Switzerland had joined the sponsors

of the draft resolution. Implementation of the resolution would require US$ 303,000 in 1995 and US$ 87,200 in 1996. Additional resources for staff at Geneva would fall within the overall staffing requirements of the Centre for Human Rights and would not therefore be included in the preliminary estimates. A statement on the administrative and budgetary implications of the draft resolution would be submitted to the Economic and Social Council in the context of the Council's review of the report of the Commission on its fifty-first session.

22. Mr. SHIDDO (Sudan), speaking in explanation of vote before the voting, said that, despite the evidence which his Government had provided to refute the allegations levelled against it since 1990, the United States delegation kept on repeating the same old allegations in its draft resolution, driven by a desire to manipulate human rights for the purpose of overthrowing the current Government of the Sudan because of its application of Islam. The same policy of harassment had been used by the apartheid regime against Mozambique and Angola, resulting in great human misery and the destruction of the infrastructure of those two African countries.

23. The objectives of the United States Government were to bring down the current Sudanese regime and achieve the secession of the southern states from the Sudan, thus establishing a cordon sanitaire between the northern and southern parts of Africa. The unfounded allegations of slavery and religious intolerance mentioned in the draft resolution had the potential to sow seeds of dissension among the countries of the region and to lead to confrontation and conflict. Such an outcome would be contrary to the role which the international community should play in conflict resolution.

24. The language used in the draft resolution was proof that its sponsors were not really serious about the issue of human rights. Had the United States delegation been serious about addressing the human rights situation in the Sudan, it would have introduced some positive elements into the draft resolution, e.g. by quoting some of the positive references to the Sudan contained in its own Government s 1995 country report.

25. Moreover, the repeated references to Islamic laws suggested that the United States Government was tampering with the provisions of the United Nations Charter regarding freedom of religion and was gradually moving towards a confrontation between the Islamic world and the West which could well have serious consequences. The international community was, in fact, witnessing the rise of a new and crude version of nineteenth century jingoism which should be nipped in the bud.

26. His delegation would vote against the draft resolution and hoped that other members would stand for fairness, objectivity and the non-politicization of human rights.

27. Mr. BEBARS (Egypt), said that, while his Government was committed to respect for human rights and fundamental freedoms, it had some concerns about the trend towards using ambiguous criteria to define those concepts. His delegation would therefore abstain during the voting. Furthermore, if paragraph 22 were put to a separate vote, his delegation would vote against it.

28. At the request of the representative of the Sudan, the vote was taken by roll-call.

29. Malawi, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Australia, Austria, Benin, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Ecuador, El Salvador, Finland, France, Gabon, Germany, Hungary, Italy, Japan, Malawi, Mauritius, Mexico, Nepal, Netherlands, Nicaragua, Peru, Poland, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zimbabwe.

Against: China, Cuba, India, Indonesia, Pakistan, Sri Lanka, Sudan.

Abstaining: Angola, Bangladesh, Bhutan, Côte d'Ivoire, Egypt, Ethiopia, Malaysia, Philippines, Republic of Korea, Togo.

30. Draft resolution E/CN.4/1995/L.93 was adopted by 33 votes to 7, with 10 abstentions.

Draft resolution on the situation of human rights in Rwanda (E/CN.4/1995/L.107)

31. Mr. TOUCHETTE (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Austria, Brazil, Bulgaria, Cameroon, Chile, Colombia, Finland, Germany, Hungary, Italy, Romania, the United Kingdom and the United States of America, and the observers for Belgium, Czech Republic, Denmark, Greece, Ireland, Israel, Liechtenstein, Luxembourg, New Zealand, Nigeria, Norway, Portugal, Slovakia, Spain, Sweden and Switzerland, said that the international community must help Rwanda settle down to the enormous task of national reconciliation. For its part, the Government of Rwanda must intensify its efforts to promote respect for human rights and to establish the conditions which would encourage refugees to return. The draft resolution sought to support the efforts of the Government of Rwanda in that regard. It also welcomed the efforts of the Secretary-General, the High Commissioner for Human Rights, the special rapporteurs and the other mechanisms involved in reconciliation and reconstruction activities in Rwanda.

32. In the first line of paragraph 19, after the words "Special Rapporteur", the words "as set out in resolution S-3/1 of 25 May 1994" should be inserted.

33. He hoped that the draft resolution, which had been the subject of intensive consultations, would be adopted by consensus.

34. Mr. MORA GODOY (Cuba) said that, in his delegation's view, the twelfth, thirteenth, fourteenth and fifteenth preambular paragraphs and paragraphs 5 and 11 referred to matters which were outside the competence of the Commission on Human Rights. It would be appropriate, therefore, to hold further consultations on the draft text.

35. Mr. HYNES (Canada) said that the paragraphs in question were based on resolutions adopted by the Commission on Human Rights at its special session on Rwanda and by the General Assembly at its most recent session. Furthermore, draft resolution E/CN.4/1995/L.107 had been welcomed by the Rwandese Government itself and enjoyed very broad general support, including within the African group.

36. His delegation was certainly willing to engage in further consultations with that of Cuba, with which it had had constructive dialogue on a number of draft resolutions. Nevertheless, in view of the broad support for the text, there would be a very limited margin for amending it. He hoped, therefore, that the Commission could proceed immediately to adopting the text without a vote.

37. Mr. MORA GODOY (Cuba) said that, at the Commission's special session on Rwanda, his delegation had made it clear that it had not wished to reopen the debate in view of the extreme urgency and gravity of the situation. Since then, conditions in Rwanda had become less urgent. It was therefore appropriate to give further consideration to those provisions in the draft resolution which failed to correspond to the Commission's mandate and which, if implemented, would constitute a breach of the Charter of the United Nations.

38. Mr. LIU Zhenmin (China) said that the International Tribunal for Rwanda, referred to in paragraph 5 of the draft resolution, did not have universal jurisdiction and, accordingly, only the States concerned should be urged to cooperate fully with it.

39. Mr. van WULFFTEN PALTHE (Netherlands) said that further discussion on the draft resolution would not be appropriate. Lengthy consultations had already been held on the text, which had the approval of the Rwandese authorities. The situation in that country required urgent attention and the Commission should take immediate action on the draft resolution.

40. Paragraph 5 did not deal with the jurisdiction of the International Tribunal for Rwanda; it simply asked States to cooperate with that body.

41. Mr. HYNES (Canada) said that it was not for him to insist that the Commission take a particular action or refuse to discuss constructive suggestions. His delegation was thus prepared to engage in further consultations on the draft resolution.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY AS WELL AS THE BASIC MEASURES NEEDED FOR THEIR PREVENTION AND ERADICATION

(agenda item 24) (continued) (E/CN.4/1995/L.103 and L.105)

Draft resolution on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as basic measures needed for their prevention and eradication (E/CN.4/1995/L.103)

42. Mr. MORA GODOY (Cuba), introducing the draft resolution on behalf of its sponsors, which had been joined by the representatives of Australia, Nepal and Romania and the observers for Gambia, Honduras, Morocco, Nigeria and Senegal, said that the text reaffirmed the universal commitment made at the World Conference on Human Rights to take effective measures against the various forms of exploitation of children.

43. The importance and urgency of confronting such practices, which were on the rise throughout the world, meant that the international community must take steps to strengthen the Convention on the Rights of the Child. Consequently, in paragraph 17, the Commission on Human Rights would decide that its open-ended inter-sessional working group for the elaboration of guidelines on a possible optional protocol should prepare, on the basis of those guidelines, a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Paragraph 22 recommended that the General Assembly should consider the recommendations of the working group on basic measures, other than an optional protocol, which could prevent or eradicate such practices.

44. The fifth, eleventh, eighteenth and nineteenth preambular paragraphs should be deleted because they related to issues that had already been dealt with in previous resolutions adopted by the Commission. In the third line of paragraph 1, the words "and their organs" should be deleted in order to bring that paragraph into line with a previous consensus resolution. Paragraphs 6, 7, 13, 14, 15 and 16, which dealt directly with the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography, should also be deleted.

45. The sponsors hoped that the draft resolution would be adopted by consensus.

46. Mr. MÖLLER (Secretary of the Commission) said that the resolution was considered to fall within the scope of mandates of the Economic and Social Council for which resources were already provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the resolution.

47. Mr. STEEL (United Kingdom), speaking in explanation of vote before the voting, said that his delegation would, with extreme regret, have to abstain when the draft resolution was put to the vote. The sale of children, child prostitution and child pornography were abhorrent practices and urgent action was needed to combat them. However, he was not convinced that the elaboration of a draft optional protocol was the right solution.

48. A number of binding international instruments dealing with those issues already existed, the most noteworthy of which was the Convention on the Rights of the Child. In 1992, the Commission had adopted a Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography which set out a framework for action at the local, national and international levels. The Committee on the Rights of the Child and the Special Rapporteur on the sale of children, child prostitution and child pornography had also made many relevant recommendations.

49. Priority should be accorded to implementing existing commitments and recommendations. Such action would go a long way to combating the problems referred to in the draft resolution. It was not clear that an optional protocol could do as much.

50. Mr. MUCH (Germany) said that his delegation would, with deep regret, have to abstain in the vote on the draft resolution. While deeply concerned about the practices referred to in the draft text, it had serious reservations with regard to the elaboration of a draft optional protocol.

51. According to the procedural guidelines contained in the report of the working group for the elaboration of guidelines on a possible optional protocol regarding the sale of children, child prostitution and child pornography (E/CN.4/1995/95), a possible optional protocol should be developed in conformity with the requirements set forth in General Assembly resolution 41/120; existing standards should be made more effective; and the views of relevant United Nations mechanisms and bodies should be taken into account. The proposal that a draft optional protocol be elaborated did not meet those requirements, particularly since it was the view of the Committee on the Rights of the Child that such an optional protocol was unnecessary.

52. His own country had adopted far-reaching legislation, based on the existing international standards, to combat the exploitation of children. Adding a new legal instrument might actually weaken existing standards by giving the false impression that the issues were not adequately addressed by the Convention on the Rights of the Child. Rather than drafting a new instrument, the working group should focus on ways to strengthen and apply the entire range of existing mechanisms.

53. Mr. van WULFFTEN PALTHE (Netherlands) said that his delegation would have to abstain, although his Government attached great importance to the eradication of the sale of children, child prostitution and child pornography and considered those practices to be abhorrent. However, child exploitation was a complex matter. In order to be meaningful, action against it must be consistent with the existing international instruments and mechanisms. Institutional structures such as the International Criminal Police Organization (INTERPOL) and the United Nations Crime Prevention and Criminal Justice Branch should also play an important role.

54. His Government continued to have reservations about the utility of an optional protocol. The guidelines for the elaboration of the protocol had not been formulated in such a manner that it which would effectively combat the practices referred to in the draft resolution.

55. Mr. DENNIS (United States of America) said that his delegation would abstain. While deeply concerned by the practices referred to in the draft text, it agreed with the previous speakers that an optional protocol might not be the appropriate solution.

56. Moreover, his delegation could not endorse the outrageous allegation, repeated in the draft resolution, that children were sold for their organs. There was no evidence whatsoever to substantiate that charge. Innocent citizens of his own country had been attacked as a result of those malicious allegations.

57. Mr. LEGAULT (Canada) said that, although his Government unequivocally condemned all exploitation of children, his delegation would be compelled to abstain. It was clear that opinions differed with regard to how best to combat that serious problem and those who favoured more vigorous implementation of the existing legislation and the strengthening of the existing mechanisms were in no way less committed than those endorsing another approach. The existing legislation and mechanisms had not yet stood the test of time. It was, therefore, premature to consider the elaboration of an optional protocol.

58. Mr. TORELLA di ROMAGNANO (Italy) said that his delegation would abstain. It fully endorsed the views of the previous speakers and agreed that the emphasis should be placed on using existing instruments, particularly the Convention on the Rights of the Child, which dealt adequately with the issues raised in the draft resolution.

59. At the request of the representative of the United Kingdom, a vote was taken by roll-call.

60. Malawi, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Australia, Bangladesh, Benin, Bhutan, Bulgaria, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, India, Indonesia, Malawi, Malaysia, Mauritania, Mauritius, Mexico, Nepal, Nicaragua, Pakistan, Peru, Philippines, Republic of Korea, Romania, Russian Federation, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Against: None.

Abstaining: Austria, Brazil, Canada, Germany, Hungary, Italy, Japan, Netherlands, Poland, United Kingdom of Great Britain and Northern Ireland, United States of America.

61. Draft resolution E/CN.4/1995/L.103, as orally revised, was adopted by 41 votes to none, with 11 abstentions.

Draft resolution on the rights of the child (E/CN.4/1995/L.105)

62. Mr. HAREL (France), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Algeria, Australia, Benin, Brazil, Bulgaria, Canada, Cameroon, Chile, Colombia, Côte d'Ivoire, Cuba, Cyprus, Dominican Republic, Ecuador, El Salvador, Ethiopia, Gabon, Guinea-Bissau, Hungary, India, Malawi, Mexico, Nepal, Nicaragua, Republic of Korea, Romania, Russian Federation, Togo, United States of America, Venezuela and Zimbabwe and the observers for Bolivia, Burundi, Costa Rica, Gambia, Honduras, Jordan, Latvia, Liechtenstein, Madagascar, New Zealand, Nigeria, Senegal, Slovenia, Switzerland and Tunisia, said that it had drawn its main elements from four other resolutions traditionally presented by the States members of the European Union. Having reviewed the draft resolution's salient points, he announced a change in the last preambular paragraph, which should read "Noting with interest" instead of "Noting with appreciation". He hoped that the draft resolution could be adopted by consensus.

63. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of the mandates of the Economic and Social Council for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would therefore be required for the implementation of the resolution.

64. Draft resolution E/CN.4/1995/L.105, as orally revised, was adopted.

65. Mr. NAITO (Japan) said that his delegation had abstained with regret on the draft resolution on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication (E/CN.4/1995/L.103). Japan attached the utmost importance to the promotion of the rights of the child, and it had ratified the Convention in 1994.

66. However, having participated the previous autumn in the working group for the elaboration of guidelines on a possible optional protocol regarding the sale of children, child prostitution and child pornography, his delegation felt that an optional protocol was not yet necessary. Priority should be given instead to the implementation of existing international instruments. Indeed, only three years previously, the Commission had adopted the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, and its implementation was still under way.

67. When attempting to draft guidelines for a possible draft optional protocol, the working group had encountered many difficulties closely linked with the domestic criminal law of individual States, which needed careful study before any further steps were taken. The views of the criminal justice experts of Governments and the competent international organizations, including the United Nations Commission on Crime Prevention and Criminal Justice, had to be reflected. The working group should continue to consider whether or not it was desirable to have an optional protocol on the issue.

68. Mr. STROHAL (Austria) said that his delegation had also abstained on draft resolution E/CN.4/1995/L.103 for the reasons already given by other delegations. In his Government's view, the Convention on the Rights of the Child covered the sale of children, child prostitution and child pornography, and that instrument enjoyed almost universal acceptance. His delegation unequivocally condemned those abhorrent practices but thought that Governments should concentrate, on the basis of the Convention, on practical measures for eradicating them. Governments, international organizations, Interpol, the United Nations crime branch and other bodies had an important role to play in that regard.

69. The draft optional protocol would need to be more specific than the relevant articles of the Convention. As a first step, the working group should strive to complete the guidelines. He noted that the Committee on the Rights of the Child had not yet supported the idea of an optional protocol. Attention should focus on implementing existing measures and increasing inter-State cooperation.

70. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 24.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 25) (continued) (E/CN.4/1995/L.78)

Draft resolution on the comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (E/CN.4/1995/L.78)

71. Mr. STROHAL (Austria), introducing the draft resolution, said that as host to the World Conference, Austria was particularly committed to the comprehensive implementation of all the recommendations of the Vienna Declaration and Programme of Action. His delegation had thus submitted draft resolutions to the General Assembly at its forty-eighth and forty-ninth sessions and to the Commission at its fiftieth session on the subject.

72. Having highlighted the main points of the draft resolution, he announced that, as a result of consultations with interested delegations, a number of changes had been made. A new paragraph had been added between paragraphs 3 and 4 to read:

> "Recognizes that the international community should devise ways and means to remove the current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting thereof throughout the world".

The language of that new paragraph came from the preamble to the Vienna Declaration. The subsequent paragraphs were to be renumbered accordingly.

73. In old paragraph 7, the word "continued" should be deleted; the words "has to" should be replaced by "can"; and the words "continuing to provide a forum for such dialogue" should be replaced by "promoting dialogue and cooperation". The words "whose activities deal with human rights" should be added at the end of the old paragraph 11. Lastly, in the old paragraph 13, the word "provide" should be replaced by "propose".

74. He hoped that the draft resolution would be adopted by consensus.

75. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Algeria, Australia, Benin, Brazil, Bulgaria, Chile, Dominican Republic, Finland, France, Germany, Hungary, India, Indonesia, Italy, Japan, Malawi, Mauritania, Mauritius, Nepal, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Sri Lanka, United Kingdom, United States of America, Venezuela and Zimbabwe and the observers for Albania, Argentina, Armenia, Costa Rica, Denmark, Gambia, Iceland, Ireland, Israel, Jordan, Kenya, Latvia, Liechtenstein, Luxembourg, Madagascar, New Zealand, Norway, Slovenia, Spain, Sweden, Tunisia and Ukraine had become sponsors of the draft resolution.

76. Draft resolution E/CN.4/1995/L.78, as orally revised, was adopted.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 14) (continued) (E/CN.4/1995/L.47, L.73, L.97 and L.112)

Draft resolution on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/1995/L.47)

Draft amendments to draft resolution E/CN.4/1995/L.47 (E/CN.4/1995/L.112)

77. Mr. KOIKAI (Observer for Kenya), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Malawi and Mauritius and the observer for Uruguay, said that it dealt with a matter of great concern not only to countries in which toxic and dangerous products and wastes had been dumped but also to other members of the international community.

78. It was a sad reality that most developing countries were unfairly exposed to the negative consequences of scientific and technological developments and that African and other countries continued to be the victims of clandestine and illicit dumping. It was an attractive option to dump such wastes in the territories of unsuspecting and uninformed developing countries that lacked the technology to process such wastes and render them harmless. Many developing countries had repeatedly drawn the attention of the international community to the need to address that issue.

79. If the experience of the forty-ninth session of the Commission was any indication, and given the strongly divergent views expressed during the consultations, it was likely that the Commission would vote on the draft resolution. If that was so, the sponsors would prefer a roll-call vote on the entire draft as presented and without any further amendments in order to meet the wishes of them all. If the draft resolution was amended in such a way that it lost its original proposals, many delegations would withdraw their sponsorship.

80. The delegation of Guinea-Bissau, which was unavoidably absent, had requested him to inform the Commission that, if it had been present, it would have voted in favour of the draft resolution.

81. He drew attention to the following changes in the draft resolution: the sixth preambular paragraph should be deleted; in paragraph 3, "decision I/20" should read "decision II/12"; and in paragraph 9, the word "adverse" should be inserted before "effects".

82. The sponsors hoped that the draft resolution would receive broad support.

83. Mr. HAREL (France), introducing the proposed amendments to draft resolution E/CN.4/1995/L.47 contained in document E/CN.4/1995/L.112, on behalf of the States members of the European Union, said that the Union fully shared the concerns of the sponsors of draft resolution E/CN.4/1995/L.47 regarding the need to halt illicit transfers of waste. That concern was, however, addressed in paragraph 11 of the Vienna Declaration and Programme of Action, which referred to the need for strict application of the existing conventions in that field.

84. On the basis of the principles agreed upon by consensus at Vienna, the Union took the view that the question could be dealt with much more effectively through instruments such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, one objective of which was precisely to preserve the environment of the developing countries from uncontrolled movements of dangerous wastes from the industrialized countries.

85. Decision II/4 of the Second Conference of the Parties to the Basel Convention prohibited, with immediate effect, all exports of toxic wastes from member countries of the Organisation for Economic Cooperation and Development (OECD) to countries not members of OECD. Another decision explicitly assigned the Convention's secretariat the leading role in the effective implementation of the Convention, including the compilation and dissemination of information on illicit traffic in waste - a task that would be entrusted to the

Special Rapporteur under the provisions of draft resolution E/CN.4/1995/L.47. Article 39 of the Fourth Lomé Convention also required the members of the European Union to ban all direct or indirect exports of hazardous products to ACP countries.

86. For those reasons, the Union feared that the appointment of a Special Rapporteur, as provided for in draft resolution E/CN.4/1995/L.47, would lead to needless duplication of international mechanisms and to dissipation or wastage of resources - an issue of great sensitivity to members of the Commission.

87. The States members of the European Union were willing to support draft resolution E/CN.4/1995/L.47 only in so far as it was in line with the language of the Vienna Declaration, omitted any reference to the appointment of a special rapporteur and referred to the specific competence of the Basel Convention in that field. If the amendments contained in document E/CN.4/1995/L.112 were put to the vote, the States members of the Union would prefer that the vote were taken by roll-call.

88. The CHAIRMAN said that, if he heard no objection, the Commission would first consider in toto the amendments to draft resolution E/CN.4/1995/L.47, contained in document E/CN.4/1995/L.112, before taking action on draft resolution E/CN.4/1995/L.47 itself.

89. Mr. MORA GODOY (Cuba), speaking on a point of order, said that the amendments contained in document E/CN.4/1995/L.112 were so far-reaching as to constitute an entirely different proposal.

90. After a discussion in which Mr. NGOUBEYOU (Cameroon), Mr. MEGHLAOUI (Algeria) and Mr. van WULFFTEN PALTHE (Netherlands) took part, the CHAIRMAN said that, under rule 64 of the rules of procedure, the Commission would first consider the amendments contained in document E/CN.4/1995/L.112.

91. Mr. ZHANG Yishan (China), speaking in explanation of vote before the voting, said that his delegation considered that the proposals contained in document E/CN.4/1995/L.112 were not genuine amendments. Even the title of the draft resolution was to be changed; and paragraphs 7 to 13 were to be deleted completely. The amendments in fact constituted a completely different proposal, and his delegation would thus vote against them.

92. Mr. DENNIS (United States of America) said that the proposed amendments did not remove the substance of the draft resolution, except with regard to the appointment of a special rapporteur. Toxic waste was already adequately addressed by the Basel Convention, one primary purpose of which was to safeguard the environment of developing countries from an influx of hazardous waste from industrialized countries. Furthermore, toxic waste was the kind of thematic issue on which the Commission should take action by consensus, if at all. Unfortunately, the sponsors of the draft resolution had rebuffed repeated attempts over several weeks to negotiate a resolution acceptable to all parties. His delegation would vote in favour of the amendments and urged all the members of the Commission to do likewise.

93. Mr. MORA GODOY (Cuba) said that, as the proposed amendments to the draft resolution rendered it completely devoid of substance and amounted to a virtual veto on the establishment of a mechanism to deal with the adverse effects on human rights of the illicit movement and dumping of toxic wastes, his delegation would vote against them.

94. Ms. TOMKINSON (Australia) said that her delegation acknowledged the seriousness of the problem of the illicit movement and dumping of toxic wastes in developing countries and the potential threat to human life that it entailed. However, it did not support the appointment of a special rapporteur as an effective or appropriate way of addressing the problem.

95. An important mechanism - the Basel Convention - already existed to address all aspects of the movement of toxic wastes. That Convention remained the best means within the United Nations system to safeguard the environment in developing countries against the uncontrolled influx of hazardous wastes originating elsewhere, including the industrialized countries. The creation of new machinery would not provide any additional benefits. The only effective means of addressing the problem was through international cooperation, based on consensus decision-making, the approach adopted elsewhere in the United Nations system to address international environmental problems.

96. Her delegation regretted that the important issue of toxic wastes had become a divisive one in the Commission and hoped that the amendments proposed in document E/CN.4/1995/L.112, which it supported, could be adopted by consensus.

97. Mr. NGOUBEYOU (Cameroon) said that the proposed amendments were based on two main arguments. The first was that, if the draft resolution were adopted, its application would entail heavy costs for the international community. That argument was neither serious nor objective, for every resolution adopted by the Commission had greater or lesser financial implications. The second argument was that the appointment of a special rapporteur would be superfluous, as mechanisms already existed for that purpose. That did not mean, however, that there was no case for having recourse to the expertise of a special rapporteur. It was difficult to see why such recourse was acceptable in some instances, but not in others.

98. During the negotiation of the Basel Convention, the developing countries had stressed that they lacked the financial and technical capacity to control movements of hazardous and toxic products; and it had been agreed that the polluters, namely, the developed countries, should pay. It was noteworthy, therefore, that the sponsors of the proposed amendments were developed countries, while the sponsors of draft resolution E/CN.4/1995/L.47 were developing countries. The real purpose of the so-called amendments was to render the draft resolution devoid of substance, and they should be rejected in toto.

99. At the request of the representatives of Algeria and France, a vote was taken by roll-call on the draft amendments contained in document E/CN.4/1995/L.112.

100. Algeria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Australia, Austria, Brazil, Bulgaria, Canada, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Malaysia, Mexico, Netherlands, Peru, Philippines, Poland, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Algeria, Angola, Bangladesh, Benin, Bhutan, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, Egypt, El Salvador, Ethiopia, Gabon, India, Indonesia, Malawi, Mauritania, Mauritius, Nepal, Nicaragua, Pakistan, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Abstaining: Republic of Korea.

101. The amendments contained in document E/CN.4/1995/L.112 were rejected by 29 votes to 22, with 1 abstention.

102. The CHAIRMAN invited the Commission to consider draft resolution E/CN.4/1995/L.47.

103. Mr. MÖLLER (Secretary of the Commission) said that the resources required to implement the requests contained in the draft resolution were estimated at US$ 45,600 for 1995, US$ 46,300 for 1996 and US$ 47,100 for 1997. After consultation with the budget office, it was assumed that the statement made in the resolution with regard to the establishment of a focal unit within the Centre was meant to recommend the establishment of such a unit in the context of the programme budget for 1996 and 1997. That recommendation and its impact on the staffing of the Centre would be examined in the context of the review of the budget proposals submitted by the Centre. A statement of the administrative and programme budget implications of the resolution would be submitted to the Economic and Social Council at its next session in the context of the Council's review of the report of the Commission on its fifty-first session.

104. At the request of the representatives of Algeria and France, a vote was taken by roll-call on draft resolution E/CN.4/1995/L.47.

105. Bhutan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Bangladesh, Benin, Bhutan, Brazil, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, India, Indonesia, Malawi, Mauritania, Mauritius, Nepal, Nicaragua, Pakistan, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Against: Australia, Austria, Canada, Finland, France, Germany, Hungary, Italy, Japan, Netherlands, Poland, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bulgaria, Malaysia, Mexico, Peru, Philippines, Republic o Korea.

106. Draft resolution E/CN.4/1995/L.47, as orally revised, was adopted by 31 votes to 15, with 6 abstentions.

The meeting rose at 6.10 p.m.